

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

**JERAME ARELLANEZ,**  
**Institutional ID No.: 2238106**

**Plaintiff,**

**v.**

**RAUL MORALES and SEBASTIAN  
CHAVEZ,**

**Defendants.**

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**3:19-CV-187-FM-LS**

**ORDER DENYING PLAINTIFF'S MOTION TO APPOINT COUNSEL**

*Pro se* inmate Arellanez, proceeding *in forma pauperis*, moves for the appointment of counsel in his lawsuit against two El Paso police officers for using excessive force when they arrested him. A civil rights complainant has no right to the automatic appointment of counsel.<sup>1</sup> Indeed, a court is not required to appoint counsel in a civil rights case unless it presents exceptional circumstances.<sup>2</sup> To gauge whether exceptional circumstances exist courts consider (1) the type and complexity of the case; (2) the indigent's ability to adequately present the case; (3) the indigent's ability to investigate the case adequately; and (4) the existence of contradictory evidence and the need for skill in evidence presentation and cross-examination.<sup>3</sup>

Arellanez's claim that Officer Morales used excessive force when he struck Arellanez's head on the concrete, while Arellanez was handcuffed, is not complex.<sup>4</sup> With respect to Arellanez's ability to present and investigate his case, I note that he has already conducted formal discovery to

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<sup>1</sup> *Ulmer v. Chancellor*, 691 F.2d 209, 212 (5th Cir. 1982).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 213.

<sup>4</sup> *See Kiser v. Dearing*, 442 F. App'x 132, 135 (5th Cir. 2011) (per curiam) (“[T]he legal contours of excessive force claims are well-established and not particularly complex.”).

learn the identities of the John Doe officers,<sup>5</sup> sought<sup>6</sup> and was granted leave to file an amended complaint<sup>7</sup> using this discovery, propounded further written discovery,<sup>8</sup> and filed a written response to the officers' motions to dismiss and assertions of qualified immunity.<sup>9</sup> Finally, at this time there is nothing in the record pointing to contradictory evidence or the need for skill in evidence presentation or cross examination. Indeed, Arellanez is adamant a video exists showing the assault.<sup>10</sup>

Given Arellanez's ability to prosecute this straightforward excessive force case to date, and having considered the *Ulmer* factors, I find that there are no exceptional circumstances in this case mandating or warranting the appointment of counsel at this time. Arellanez's motion for appointment of counsel is **DENIED**.

**SO ORDERED.**

**SIGNED** and **ENTERED** on April 30, 2020.

A handwritten signature in black ink, appearing to read 'Leon Schydlower', with a large loop and a long horizontal stroke.

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**LEON SCHYDLOWER**  
**UNITED STATES MAGISTRATE JUDGE**

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<sup>5</sup> See ECF Nos. 28, 29.

<sup>6</sup> ECF No. 30.

<sup>7</sup> ECF No. 32.

<sup>8</sup> ECF No. 51.

<sup>9</sup> ECF No. 56.

<sup>10</sup> *Id.* at 2.